

ESTTA Tracking number: **ESTTA248567**

Filing date: **11/12/2008**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Davis Industries, Inc.
Granted to Date of previous extension	11/12/2008
Address	6425 - 212th Street SW Lynnwood, WA 98036 UNITED STATES
Attorney information	Robert J. Carlson Christensen O'Connor Johnson Kindness PLLC 1420 Fifth Avenue, Suite 2800 Seattle, WA 98101 UNITED STATES bob.carlson@cojk.com, kathi.milner@cojk.com Phone:206.682.8100

Applicant Information

Application No	77411015	Publication date	07/15/2008
Opposition Filing Date	11/12/2008	Opposition Period Ends	11/12/2008
Applicant	LIBERTY PETROLEUM, LLC 1100 Harris Street Charlottesville, VA 22903 UNITED STATES		

Goods/Services Affected by Opposition

Class 004. First Use: 2000/11/00 First Use In Commerce: 2000/11/00
All goods and services in the class are opposed, namely: Petroleum products, namely, hydrocarbon fuels; Petroleum products, namely, motor oil

Applicant Information

Application No	77410925	Publication date	07/15/2008
Opposition Filing Date	11/12/2008	Opposition Period Ends	
Applicant	LIBERTY PETROLEUM, LLC 1100 Harris Street Charlottesville, VA 22903 UNITED STATES		

Goods/Services Affected by Opposition

Class 004. First Use: 2000/11/00 First Use In Commerce: 2000/11/00
All goods and services in the class are opposed, namely: Petroleum products, namely, hydrocarbon

fuels; Petroleum products, namely, motor oil
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Applicant Information

Application No	77410965	Publication date	07/15/2008
Opposition Filing Date	11/12/2008	Opposition Period Ends	
Applicant	LIBERTY PETROLEUM, LLC 1100 Harris Street Charlottesville, VA 22903 UNITED STATES		

Goods/Services Affected by Opposition

Class 004. First Use: 2000/11/00 First Use In Commerce: 2000/11/00 All goods and services in the class are opposed, namely: Petroleum products, namely, hydrocarbon fuels
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Applicant Information

Application No	77410917	Publication date	07/15/2008
Opposition Filing Date	11/12/2008	Opposition Period Ends	
Applicant	LIBERTY PETROLEUM, LLC 1100 Harris Street Charlottesville, VA 22903 UNITED STATES		

Goods/Services Affected by Opposition

Class 004. First Use: 2000/11/00 First Use In Commerce: 2000/11/00 All goods and services in the class are opposed, namely: Petroleum products, namely, hydrocarbon fuels
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Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Mark Cited by Opposer as Basis for Opposition

U.S. Application/Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	LIBERTY		
Goods/Services	Retail sales of petroleum fuels and lubricants, such as gasoline and motor oil.		

Attachments	24014 OPP1.pdf (4 pages)(19266 bytes) 24014 OPP2.pdf (4 pages)(19222 bytes) 24014 OPP3.pdf (4 pages)(19134 bytes) 24014 OPP4.pdf (4 pages)(19054 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Robert J. Carlson/
Name	Robert J. Carlson
Date	11/12/2008

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Applicant: Liberty Petroleum, LLC

International Class: 4

Serial No.: 77/411,015

Published for Opposition: July 15, 2008

Filed: March 3, 2008

Mark: LIBERTY and Design

Attorney Docket No.: DAVIN-5-24014

Goods: Petroleum products, namely, hydrocarbon fuels; petroleum products, namely, motor oil, in International Class 4.

Davis Industries, Inc., a Washington corporation,

Opposition No. _____

Opposer,

NOTICE OF OPPOSITION

v.

Liberty Petroleum, LLC, a Virginia limited liability corporation,

Applicant.

NOTICE OF OPPOSITION

Seattle, Washington 98101
November 12, 2008

TO THE COMMISSIONER FOR TRADEMARKS

TRADEMARK TRIAL AND APPEAL BOARD:

Davis Industries, Inc., a corporation of the State of Washington, having a place of business at 6425 - 212th Street SW, Lynnwood, WA 98036 (hereinafter "Opposer"), believes that it will be damaged by registration of the trademark shown in Application Serial No. 77/411,015 in International Class 4, and hereby opposes the same. As grounds for the opposition, Opposer alleges as follows.

1. Opposer is informed and believes, and thereon alleges, that Liberty Petroleum,

1 LLC (hereinafter "Applicant") is a limited liability corporation organized and existing under the
2 laws of the Commonwealth of Virginia, having a business address at 1100 Harris Street,
3 Charlottesville, VA 22903.

4 2. Continuously, and since long prior to any date upon which Applicant can rely,
5 Opposer has used the trademark LIBERTY in association with the retail sales of petroleum fuels
6 and lubricants, such as gasoline and motor oil.

7 3. Continuously, and since long prior to any date upon which Applicant can rely,
8 Opposer has made the above described use of its LIBERTY trademark in interstate commerce.

9 4. The mark LIBERTY and Design, as shown in Application Serial No. 77/411,015,
10 so resembles Opposer's mark when used in association with the goods claimed in the application
11 as to be likely to cause confusion, or to cause mistake, or to deceive, within the meaning of
12 Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d).

13 5. Opposer will be damaged by the registration sought by Applicant insofar as the
14 proposed registration will be *prima facie* evidence of the validity of the registration, as well as
15 Applicant's ownership of the mark LIBERTY and Design for the goods claimed in the
16 application, and Applicant's exclusive right to use the mark in association with the claimed
17 goods. In fact, Applicant is not entitled to such rights by virtue of Opposer's prior and
18 continuous use in interstate commerce of Opposer's LIBERTY mark for retail sales of petroleum
19 products.

20 6. Based upon the foregoing, registration of the mark shown in Application Serial
21 No. 77/411,015 as requested in Applicant's application filed March 3, 2008 is likely to cause
22 injury and damage to Opposer.

23 WHEREFORE, Opposer respectfully requests that registration of the mark LIBERTY
24 and Design as requested by Application Serial No. 77/411,015 be denied under Section 2(d) of
25 the Lanham Act, 15 U.S.C. § 1052(d), and that this Opposition be sustained.

26 Please charge the filing fee of US\$300.00 to Deposit Account No. 03-1740 of Opposer's
27

1 counsel noted below.

2 Please direct all correspondence to Robert J. Carlson of Christensen O'Connor Johnson
3 Kindness PLLC at the following address:

4 Robert J. Carlson, Esq.
5 Christensen O'Connor Johnson Kindness^{PLLC}
6 1420 5th Avenue, Suite 2800
7 Seattle, Washington 98101

8 Please direct all telephone calls to Robert J. Carlson at 206-682-8100.

9 Respectfully submitted,

10 CHRISTENSEN O'CONNOR
11 JOHNSON KINDNESS PLLC

12 s/Robert J. Carlson

13 Robert J. Carlson
14 Attorneys for Opposer

CERTIFICATE OF FILING

I hereby certify that this NOTICE OF OPPOSITION to U.S. Trademark Application Serial No. 77/411,015 for the mark LIBERTY and Design is being filed with the Trademark Trial and Appeal Board using the ESTTA filing system of the U.S. Patent and Trademark Office on the below date.

Date: November 12, 2008

s/Robert J. Carlson

CERTIFICATE OF SERVICE

I hereby certify that this NOTICE OF OPPOSITION to U.S. Trademark Application Serial No. 77/411,015 for the mark LIBERTY and Design is being duly served upon the Applicant by mailing a copy thereof via the U.S. Postal Service in a sealed envelope as first class mail with postage thereupon fully prepaid and addressed to:

Applicant:

Liberty Petroleum, LLC

1100 Harris Street

Charlottesville, VA 22903

Applicant's Attorney of Record:

Thomas W. Cole, Esq.

Roberts Mlotkowski & Hobbes P.C.

7918 Jones Branch Drive, Suite 500

McLean, VA 22102

Date: November 12, 2008

s/Robert J. Carlson

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Applicant: Liberty Petroleum, LLC

International Class: 4

Serial No.: 77/410,925

Published for Opposition: July 15, 2008

Filed: March 3, 2008

Mark: LIBERTY and Design

Attorney Docket No.: DAVIN-5-24014

Goods: Petroleum products, namely, hydrocarbon fuels; petroleum products, namely, motor oil, in International Class 4.

Davis Industries, Inc., a Washington corporation,

Opposition No. _____

Opposer,

NOTICE OF OPPOSITION

v.

Liberty Petroleum, LLC, a Virginia limited liability corporation,

Applicant.

NOTICE OF OPPOSITION

Seattle, Washington 98101

November 12, 2008

TO THE COMMISSIONER FOR TRADEMARKS

TRADEMARK TRIAL AND APPEAL BOARD:

Davis Industries, Inc., a corporation of the State of Washington, having a place of business at 6425 - 212th Street SW, Lynnwood, WA 98036 (hereinafter "Opposer"), believes that it will be damaged by registration of the trademark shown in Application Serial No. 77/410,925 in International Class 4, and hereby opposes the same. As grounds for the opposition, Opposer alleges as follows.

1. Opposer is informed and believes, and thereon alleges, that Liberty Petroleum,

1 LLC (hereinafter "Applicant") is a limited liability corporation organized and existing under the
2 laws of the Commonwealth of Virginia, having a business address at 1100 Harris Street,
3 Charlottesville, VA 22903.

4 2. Continuously, and since long prior to any date upon which Applicant can rely,
5 Opposer has used the trademark LIBERTY in association with the retail sales of petroleum fuels
6 and lubricants, such as gasoline and motor oil.

7 3. Continuously, and since long prior to any date upon which Applicant can rely,
8 Opposer has made the above described use of its LIBERTY trademark in interstate commerce.

9 4. The mark LIBERTY and Design, as shown in Application Serial No. 77/410,925,
10 so resembles Opposer's mark when used in association with the goods claimed in the application
11 as to be likely to cause confusion, or to cause mistake, or to deceive, within the meaning of
12 Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d).

13 5. Opposer will be damaged by the registration sought by Applicant insofar as the
14 proposed registration will be *prima facie* evidence of the validity of the registration, as well as
15 Applicant's ownership of the mark LIBERTY and Design for the goods claimed in the
16 application, and Applicant's exclusive right to use the mark in association with the claimed
17 goods. In fact, Applicant is not entitled to such rights by virtue of Opposer's prior and
18 continuous use in interstate commerce of Opposer's LIBERTY mark for retail sales of petroleum
19 products.

20 6. Based upon the foregoing, registration of the mark shown in Application Serial
21 No. 77/410,925 as requested in Applicant's application filed March 3, 2008 is likely to cause
22 injury and damage to Opposer.

23 WHEREFORE, Opposer respectfully requests that registration of the mark LIBERTY
24 and Design as requested by Application Serial No. 77/410,925 be denied under Section 2(d) of
25 the Lanham Act, 15 U.S.C. § 1052(d), and that this Opposition be sustained.

26 Please charge the filing fee of US\$300.00 to Deposit Account No. 03-1740 of Opposer's
27

1 counsel noted below.

2 Please direct all correspondence to Robert J. Carlson of Christensen O'Connor Johnson
3 Kindness PLLC at the following address:

4 Robert J. Carlson, Esq.
5 Christensen O'Connor Johnson Kindness^{PLLC}
6 1420 5th Avenue, Suite 2800
7 Seattle, Washington 98101

8 Please direct all telephone calls to Robert J. Carlson at 206-682-8100.

9 Respectfully submitted,

10 CHRISTENSEN O'CONNOR
11 JOHNSON KINDNESS PLLC

12 s/Robert J. Carlson

13 Robert J. Carlson
14 Attorneys for Opposer

1 **CERTIFICATE OF FILING**

2 I hereby certify that this NOTICE OF OPPOSITION to U.S. Trademark Application
3 Serial No. 77/410,925 for the mark LIBERTY and Design is being filed with the Trademark
4 Trial and Appeal Board using the ESTTA filing system of the U.S. Patent and Trademark Office
on the below date.

5 Date: November 12, 2008

s/Robert J. Carlson

6 **CERTIFICATE OF SERVICE**

7
8 I hereby certify that this NOTICE OF OPPOSITION to U.S. Trademark Application
9 Serial No. 77/410,925 for the mark LIBERTY and Design is being duly served upon the
10 Applicant by mailing a copy thereof via the U.S. Postal Service in a sealed envelope as first class
mail with postage thereupon fully prepaid and addressed to:

11 Applicant:

Liberty Petroleum, LLC

1100 Harris Street

Charlottesville, VA 22903

14 Applicant's Attorney of Record:

Thomas W. Cole, Esq.

15 Roberts Mlotkowski & Hobbes P.C.

7918 Jones Branch Drive, Suite 500

16 McLean, VA 22102

17 Date: November 12, 2008

s/Robert J. Carlson

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Applicant: Liberty Petroleum, LLC

International Class: 4

Serial No.: 77/410,965

Published for Opposition: July 15, 2008

Filed: March 3, 2008

Mark: LIBERTY and Design

Attorney Docket No.: DAVIN-5-24014

Goods: Petroleum products, namely, hydrocarbon fuels, in International Class 4.

Davis Industries, Inc., a Washington corporation,

Opposition No. _____

Opposer,

NOTICE OF OPPOSITION

v.

Liberty Petroleum, LLC, a Virginia limited liability corporation,

Applicant.

NOTICE OF OPPOSITION

Seattle, Washington 98101

November 12, 2008

TO THE COMMISSIONER FOR TRADEMARKS

TRADEMARK TRIAL AND APPEAL BOARD:

Davis Industries, Inc., a corporation of the State of Washington, having a place of business at 6425 - 212th Street SW, Lynnwood, WA 98036 (hereinafter "Opposer"), believes that it will be damaged by registration of the trademark shown in Application Serial No. 77/410,965 in International Class 4, and hereby opposes the same. As grounds for the opposition, Opposer alleges as follows.

1. Opposer is informed and believes, and thereon alleges, that Liberty Petroleum, LLC (hereinafter "Applicant") is a limited liability corporation organized and existing under the

1 laws of the Commonwealth of Virginia, having a business address at 1100 Harris Street,
2 Charlottesville, VA 22903.

3 2. Continuously, and since long prior to any date upon which Applicant can rely,
4 Opposer has used the trademark LIBERTY in association with the retail sales of petroleum fuels
5 and lubricants, such as gasoline and motor oil.

6 3. Continuously, and since long prior to any date upon which Applicant can rely,
7 Opposer has made the above described use of its LIBERTY trademark in interstate commerce.

8 4. The mark LIBERTY and Design, as shown in Application Serial No. 77/410,965,
9 so resembles Opposer's mark when used in association with the goods claimed in the application
10 as to be likely to cause confusion, or to cause mistake, or to deceive, within the meaning of
11 Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d).

12 5. Opposer will be damaged by the registration sought by Applicant insofar as the
13 proposed registration will be *prima facie* evidence of the validity of the registration, as well as
14 Applicant's ownership of the mark LIBERTY and Design for the goods claimed in the
15 application, and Applicant's exclusive right to use the mark in association with the claimed
16 goods. In fact, Applicant is not entitled to such rights by virtue of Opposer's prior and
17 continuous use in interstate commerce of Opposer's LIBERTY mark for retail sales of petroleum
18 products.

19 6. Based upon the foregoing, registration of the mark shown in Application Serial
20 No. 77/410,965 as requested in Applicant's application filed March 3, 2008 is likely to cause
21 injury and damage to Opposer.

22 WHEREFORE, Opposer respectfully requests that registration of the mark LIBERTY
23 and Design as requested by Application Serial No. 77/410,965 be denied under Section 2(d) of
24 the Lanham Act, 15 U.S.C. § 1052(d), and that this Opposition be sustained.

25 Please charge the filing fee of US\$300.00 to Deposit Account No. 03-1740 of Opposer's
26 counsel noted below.

1 Please direct all correspondence to Robert J. Carlson of Christensen O'Connor Johnson
2 Kindness PLLC at the following address:

3 Robert J. Carlson, Esq.
4 Christensen O'Connor Johnson Kindness^{PLLC}
5 1420 5th Avenue, Suite 2800
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8 Respectfully submitted,

9 CHRISTENSEN O'CONNOR
10 JOHNSON KINDNESS PLLC

11 s/Robert J. Carlson

12 Robert J. Carlson
13 Attorneys for Opposer
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1 **CERTIFICATE OF FILING**

2 I hereby certify that this NOTICE OF OPPOSITION to U.S. Trademark Application
3 Serial No. 77/410,965 for the mark LIBERTY and Design is being filed with the Trademark
4 Trial and Appeal Board using the ESTTA filing system of the U.S. Patent and Trademark Office
on the below date.

5 Date: November 12, 2008

s/Robert J. Carlson

6 **CERTIFICATE OF SERVICE**

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8 I hereby certify that this NOTICE OF OPPOSITION to U.S. Trademark Application
9 Serial No. 77/410,965 for the mark LIBERTY and Design is being duly served upon the
10 Applicant by mailing a copy thereof via the U.S. Postal Service in a sealed envelope as first class
mail with postage thereupon fully prepaid and addressed to:

11 Applicant:

Liberty Petroleum, LLC

1100 Harris Street

Charlottesville, VA 22903

14 Applicant's Attorney of Record:

Thomas W. Cole, Esq.

15 Roberts Mlotkowski & Hobbes P.C.

7918 Jones Branch Drive, Suite 500

16 McLean, VA 22102

17 Date: November 12, 2008

s/Robert J. Carlson

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Applicant: Liberty Petroleum, LLC

International Class: 4

Serial No.: 77/410,917

Published for Opposition: July 15, 2008

Filed: March 3, 2008

Mark: LIBERTY

Attorney Docket No.: DAVIN-5-24014

Goods: Petroleum products, namely, hydrocarbon fuels, in International Class 4.

Davis Industries, Inc., a Washington corporation,

Opposition No. _____

Opposer,

NOTICE OF OPPOSITION

v.

Liberty Petroleum, LLC, a Virginia limited
liability corporation,

Applicant.

NOTICE OF OPPOSITION

Seattle, Washington 98101

November 12, 2008

TO THE COMMISSIONER FOR TRADEMARKS

TRADEMARK TRIAL AND APPEAL BOARD:

Davis Industries, Inc., a corporation of the State of Washington, having a place of business at 6425 - 212th Street SW, Lynnwood, WA 98036 (hereinafter "Opposer"), believes that it will be damaged by registration of the trademark shown in Application Serial No. 77/410,917 in International Class 4, and hereby opposes the same. As grounds for the opposition, Opposer alleges as follows.

1. Opposer is informed and believes, and thereon alleges, that Liberty Petroleum, LLC (hereinafter "Applicant") is a limited liability corporation organized and existing under the

1 laws of the Commonwealth of Virginia, having a business address at 1100 Harris Street,
2 Charlottesville, VA 22903.

3 2. Continuously, and since long prior to any date upon which Applicant can rely,
4 Opposer has used the trademark LIBERTY in association with the retail sales of petroleum fuels
5 and lubricants, such as gasoline and motor oil.

6 3. Continuously, and since long prior to any date upon which Applicant can rely,
7 Opposer has made the above described use of its LIBERTY trademark in interstate commerce.

8 4. The mark LIBERTY, as shown in Application Serial No. 77/410,917, so
9 resembles Opposer's mark when used in association with the goods claimed in the application as
10 to be likely to cause confusion, or to cause mistake, or to deceive, within the meaning of
11 Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d).

12 5. Opposer will be damaged by the registration sought by Applicant insofar as the
13 proposed registration will be *prima facie* evidence of the validity of the registration, as well as
14 Applicant's ownership of the mark LIBERTY for the goods claimed in the application, and
15 Applicant's exclusive right to use the mark in association with the claimed goods. In fact,
16 Applicant is not entitled to such rights by virtue of Opposer's prior and continuous use in
17 interstate commerce of Opposer's LIBERTY mark for retail sales of petroleum products.

18 6. Based upon the foregoing, registration of the mark shown in Application Serial
19 No. 77/410,917 as requested in Applicant's application filed March 3, 2008 is likely to cause
20 injury and damage to Opposer.

21 WHEREFORE, Opposer respectfully requests that registration of the mark LIBERTY as
22 requested by Application Serial No. 77/410,917 be denied under Section 2(d) of the Lanham Act,
23 15 U.S.C. § 1052(d), and that this Opposition be sustained.

24 Please charge the filing fee of US\$300.00 to Deposit Account No. 03-1740 of Opposer's
25 counsel noted below.

26 Please direct all correspondence to Robert J. Carlson of Christensen O'Connor Johnson
27

1 Kindness PLLC at the following address:

2 Robert J. Carlson, Esq.
3 Christensen O'Connor Johnson Kindness^{PLLC}
4 1420 5th Avenue, Suite 2800
5 Seattle, Washington 98101

6 Please direct all telephone calls to Robert J. Carlson at 206-682-8100.

7 Respectfully submitted,

8 CHRISTENSEN O'CONNOR
9 JOHNSON KINDNESS PLLC

10 s/Robert J. Carlson

11 Robert J. Carlson
12 Attorneys for Opposer
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1 **CERTIFICATE OF FILING**

2 I hereby certify that this NOTICE OF OPPOSITION to U.S. Trademark Application
3 Serial No. 77/410,917 for the mark LIBERTY is being filed with the Trademark Trial and
4 Appeal Board using the ESTTA filing system of the U.S. Patent and Trademark Office on the
below date.

5 Date: November 12, 2008

s/Robert J. Carlson

6 **CERTIFICATE OF SERVICE**

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8 I hereby certify that this NOTICE OF OPPOSITION to U.S. Trademark Application
9 Serial No. 77/410,917 for the mark LIBERTY is being duly served upon the Applicant by
10 mailing a copy thereof via the U.S. Postal Service in a sealed envelope as first class mail with
postage thereupon fully prepaid and addressed to:

11 Applicant:

Liberty Petroleum, LLC

12 1100 Harris Street

13 Charlottesville, VA 22903

14 Applicant's Attorney of Record:

Thomas W. Cole, Esq.

15 Roberts Mlotkowski & Hobbes P.C.

7918 Jones Branch Drive, Suite 500

16 McLean, VA 22102

17 Date: November 12, 2008

s/Robert J. Carlson